

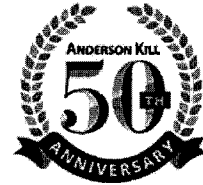
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March 12, 2019

VIA ECF and EMAIL

The Honorable Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

Re: Lord & Taylor LLC v Great American Insurance Company
18 Civ. 12312 (KPF)

Dear Judge Failla:

We represent the Plaintiff Lord & Taylor LLC ("Lord & Taylor") in the above referenced action. Pursuant to your Honor's Notice of Initial Pretrial Conference (Doc. 12), Defendant Great American Insurance Company ("GAIC") joins in this letter and the attached Proposed Civil Case Management Plan and Scheduling Order.

- (1) This is an insurance coverage dispute arising from GAIC's denial of Lord & Taylor's claim for insurance coverage under a "Crime Protection Policy" sold by GAIC. Lord & Taylor claims it is entitled to "Computer Fraud" insurance coverage for losses Lord & Taylor alleges it sustained from theft by online fraudsters. Lord & Taylor alleges that merchandise was stolen from Lord & Taylor when goods were ordered via computer and paid for online by pre-paid cards. Lord & Taylor seeks a declaration of GAIC's coverage obligations under the crime insurance policies, and that GAIC has breached its duties owed to Lord & Taylor by refusing to pay the insurance claim.

In turn, GAIC has asserted various affirmative defenses, including that the insurance policy does not provide coverage for Lord & Taylor's insurance claim; Lord & Taylor has failed to comply with the terms of the policy or the conditions precedent in the policy; Lord & Taylor has failed to mitigate its losses; and Lord & Taylor's losses arise from multiple occurrences, none of which exceed the policy's deductible amount per occurrence.

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- (2) This court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship as between the parties. Plaintiff Lord & Taylor LLC is a Delaware limited liability company that is wholly-owned by Hudson's Bay Company, a publicly traded company that is headquartered in Brampton, ON, Canada and federally incorporated under the laws of Canada. None of Lord & Taylor's members are domiciled or otherwise residents of Ohio. Defendant GAIC, on the other hand, is incorporated and has its principal places of business in Ohio. Thus, because no members of Lord & Taylor are citizens of Ohio, there is complete diversity of citizenship. See *Bayerische Landesbank, New York Branch v. Aladdin Capital Mgt. LLC*, 692 F.3d 42, 49 (2d Cir. 2012). The amount in controversy exceeds the sum or value of \$75,000.

Personal jurisdiction is proper in New York because there is the requisite nexus between business conducted by GAIC in New York and this action.

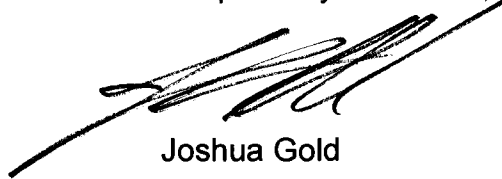
Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) & (c)(2) because GAIC is subject to personal jurisdiction in this matter.

- (3) The parties agree to the case management deadlines set forth in the proposed Civil Case Management Plan and Scheduling Order submitted herewith.
- (4) There are no pending or outstanding motions.
- (5) No discovery has taken place thus far other than GAIC serving document requests and interrogatories on March 1, 2019.
- (6) There currently are no settlement discussions scheduled. The parties have agreed to enter into private mediation and propose such mediation take place after document discovery has been completed and the parties have completed depositions of each other's corporate representative(s) under Rule 30(b)(6) of the Federal Rules of Civil Procedure.
- (7) The parties do not have any additional information they believe may assist the Court at this stage of the case.

Should the Court have any questions or require additional information, please let us know and the parties will respond promptly.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joshua Gold', with a long horizontal line extending from the end of the signature.

JG/hvc
CC: Vianny Pichardo, Esq. (Anderson Kill, P.C.)

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